

NOT DESIGNATED FOR PUBLICATION  
ARKANSAS COURT OF APPEALS  
D.P. MARSHALL JR., JUDGE

DIVISION III

CACR06-869

21 March 2007

EVERETT BOLDEN,  
APPELLANT

v.

AN APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT  
[CR00-1875]

STATE OF ARKANSAS,  
APPELLEE

HONORABLE JOHN W. LANGSTON,  
JUDGE

AFFIRMED AS MODIFIED

In 2001, the Pulaski County Circuit Court convicted Everett Bolden of driving while intoxicated and refusing to submit to testing. The court ordered him to pay \$2,500 in fines and costs. At a hearing in April 2006, the circuit court found that Bolden had not paid the \$2,845.16 he owed and sentenced him to jail pursuant to Ark. Code Ann. § 5-4-203(a)(3) (Repl. 1997). Bolden appeals his incarceration and, in any event, the terms of the judgment and commitment order.

The statute authorized the circuit court to incarcerate Bolden for his failure to pay fines or costs unless Bolden showed his default was not attributable to either a

purposeful failure to obey the court's sentence or a failure to make a good faith effort to obtain the money to make the payment. Ark. Code Ann. § 5-4-203(a)(3)(A). Bolden made no such showing. At the hearing, he testified that he was unemployed and that for the past four years he had not worked other than performing short-term odd jobs. His reasons for failing to pay were unclear. Bolden stated that it was difficult for him to hold down a job due to his vaguely described medical problems and that he had been incarcerated in the county jail several times for various misdemeanors. Since the fine was imposed in 2001, he has been supported by his family and food stamps. His family, however, felt like it had been "taken advantage of" and would no longer support him until he went back to the state hospital, where he has been treated periodically during the past twenty-six years. Contrary to Bolden's arguments on appeal, he did not carry his burden under the statute. We therefore affirm the circuit court's decision to incarcerate Bolden.

Bolden's judgment and commitment order indicates that he owes \$2,925.15. As he points out, this amount is slightly different from the \$2,845.16 that the clerk said at the hearing that Bolden owed. The discrepancy is inconsequential, however, because under the statute, Bolden's jail term would be thirty days for either amount. Ark. Code Ann. § 5-4-203 (a)(3)(B). We do, however, modify Bolden's judgment and commitment order, as he requests, to state the thirty days of jail time required

under the statute and six days of credit for his time served. *Harness v. State*, 352 Ark. 335, 339, 101 S.W.3d 235, 238 (2003).

Affirmed as modified.

GLOVER and BAKER, JJ., agree.